MDR Tracking Number: M5-04-0186-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 09-15-03.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visit on 10-29-02, TWCC report on 10-29-02 and 03-19-03, psychiatric evaluation, psychiatric testing, psychiatric diagnostic interview and interpretation of psychiatric exam on 05-06-03 were found to be medically necessary. The therapeutic procedures, electrical stimulation, hot/cold pack therapy for dates of service 10-02-02 through 10-23-02, the prolonged evaluation and management on date of service 10-29-02 and 11-06-02, office visit on 11-06-02, work hardening on dates of service 12-05-02 through 12-19-02 and office visit on 03-19-03 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for therapeutic procedures, electrical stimulation, hot/cold pack therapy, office visits, TWCC reports, prolonged evaluation and management, work hardening, psychiatric evaluation, psychiatric testing, psychiatric diagnostic interview and interpretation of psychiatric exam.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this Order. This Order is applicable to dates of service 10-02-02 through 05-06-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 23rd day of February 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION amended

February 16, 2004

Re: IRO Case # M5-04-0186

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Physical Medicine and Rehabilitation, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

> History
> The patient is a 40-year-old female who on ___ was lifting a heavy person when she felt immediate pain in her low back. She was treated conservatively with physical therapy and chiropractic treatment. An MRI of the lumbar spine on 4/6/02 showed a central disk bulge at L4-5 and multi-level disk space desiccation. EMG/NCS evaluation on 5/31/02 was negative. The patient apparently underwent epidural steroid injections and facet joint injections without significant benefit. The patient continued to have persistent pain in her low back radiating into the left buttock and leg. An FCE was performed on 11/5/02. The

patient then entered a work hardening program. A behavioral assessment was later performed on 5/6/03. The records provided for this review were not extensive.

Requested Service(s)
Therapeutic proc one or more areas, electrical stimulation, hot/cold packs, office visit, special reports, prolong E&M, work hardening, psych evaluation, psych testing, psychiatric diagnostic interview, interpretation exam/proc/data to family 10/2/02 through 5/6/03

Decision
I agree in part and disagree in part with the carrier's decision to deny the requested treatment.

Rationale
I agree with the denial of the requested services for the dates 10/2/02 – 10/23/02. These physical therapy services were billed eight months after the patient's injury. No documentation was provided for this review supporting the medical necessity of these services.
I disagree with the denial of the office visit and submission of the TWCC form 73 on 10/29/02. The patient saw the doctor for this evaluation, and the documentation provided supports this level of charge. The TWCC form 73 was completed at the time of the office visit.
I agree with the denial of the service coded 99358 on 10/29/02. The patient was evaluated on that date and the TWCC form was submitted. But no documentation was provided for this review supporting the need for additional services.
I agree with the denial of the requested services on 11/6/02. The patient saw a doctor at the treatment center on 10/29/02. That doctor stated that follow up would be on 11/26/02. She was not referred to another doctor. The patient was then seen by another doctor in the same treatment center on 11/6/02. No documentation was provided for this review indicating why the patient needed to be seen. In addition, the report for that date of service does not justify the level of service that was billed.
I agree with the denial of the work hardening program 12/5/02-12/19/02. The patient injured her low back on ___. She was then apparently treated extensively with physical therapy. According to the few notes provided fort his review, the patient progressed initially, but then plateaued as her therapy progressed. No notes were provided that mentioned if the patient ever tried to return to work with restrictions. Her 11/5/02 FCE rates her at a light to medium physical demand level, with a job that requires heavy lifting. However, there is no indication of any psychological, social or vocational deficits that would require a multidisciplinary work hardening program to address. Perhaps a gradual return to work or a work conditioning program might have been appropriate.
I agree with the denial of the office visit on 3/19/03. The note provided for that date does not justify a level 3 office visit.
I disagree with the denial of code 99080 on 3/19/03 as a TWCC form 73 was submitted for that date.

I disagree with the denial of a behavioral assessment and psychiatric diagnostic interview performed on 5/6/03. The FCE performed on 1/23/03 documented "increased symptoms of depression and anxiety" and reported "psychological overlay as limiting further progress in her treatment." This clearly identifies a need for a psychological evaluationand psychiatric diagnostic interview.
No documentation was provided for any other services on 5/6/03.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

_____